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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/785,222	02/20/2001	Lee Codel Lawson Tarbotton	550-212	3948
23117	7590	03/29/2005	EXAMINER	
NIXON & VANDERHYE, PC 1100 N GLEBE ROAD 8TH FLOOR ARLINGTON, VA 22201-4714			CHAI, LONGBIT	
			ART UNIT	PAPER NUMBER
			2131	

DATE MAILED: 03/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/785,222	Applicant(s) TARBOTTON ET AL.	
	Examiner Longbit Chai	Art Unit 2131	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The **Remarks** filed on 1/19/2005 is sufficient to overcome the Kouznetsov reference (Patent Number: 6029256) because Network Associates, Inc. is the same assignee of both Kouznetsov the instant application and thereby Kouznetsov qualifies as prior art under 35 U.S.C. § 102(e) and not as prior art under 35 U.S.C. § 103(a).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraph of 35 U.S.C. 102 that forms the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 15, 19, 33, 37 and 51 are rejected under 35 U.S.C. 102(b) as being anticipated by Chi (Patent Number: 6006329).

As per claim 1, 19 and 37, Chi teaches a computer program product comprising a computer program operable to control a computer to generate audit data indicative of a request to execute a computer program, said computer program comprising:

(i) computer virus scanner logic operable to receive a computer virus scan request, said computer virus scan request including data identifying a computer file to be

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scanned for computer viruses (Chi: see for example, Figure 3a Element 305 and Column 3 Line 13 – 15); and

(ii) audit data generator logic triggered by said computer virus scanner logic, and responsive to said data identifying said computer file to be scanned, to identify a request to execute a computer program and, in response to identification of said request to execute said computer program, to generate audit data identifying said computer program (Chi: see for example, Figure 3b Element 335 and Column 3 Line 26 – 35: the virus detection method is interpreted as audit data generator logic and the reported virus signature is interpreted as audit data identifying said computer program infected by the respective virus).

As per claim 15, 33 and 51, Chi teaches the claimed invention as described above (see claim 1, 19 and 37 respectively). Chi further teaches computer virus scan request results from an on-access scan (Chi: see for example, Column 3 Line 13 – 15).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A person shall be entitled to a patent unless –

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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3. Claims 2 – 5, 11, 12, 20 – 23, 29, 30, 38 – 41 and 47 – 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chi (Patent Number: 6006329), in view of Chambers (Patent Number: 5398196).

As per claim 2, 20 and 38, Chi teaches the claimed invention as described above (claim 1, 19 and 37 respectively). Chi does not teach a file access request to an operating system triggers generation of said computer virus scan request.

Chambers teaches a file access request to an operating system triggers generation of said computer virus scan request (Chambers: see for example, Column 1 Line 68 – Column 2 Line 10 and Column 6 Line 41 – 50).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Chambers within the system of Chi because Chi teaches a method of computer virus detection (Chi: see for example, Column 1 Line 6 – 7) and Chambers teaches an improved antivirus program by scanning for viral behavior when a program attempts to make an operating system call (Chambers: see for example, Column 3 Line 38 – 42 and Column 6 Line 37 – 40).

As per claim 3, 21 and 39, Chi teaches the claimed invention as described above (see claim 1, 19 and 37 respectively). Chi does not teach audit data generator logic is responsive to data identifying one or more banned computer programs to identify a request to execute a banned computer program.

Chambers teaches audit data generator logic is responsive to data identifying one or more banned computer programs to identify a request to execute a banned computer program (Chambers: see for example, Column 1 Line 68 – Column 2 Line 10 and Column 6 Line 41 – 50: a banned program is interpreted as that not within a permitted program list).

Same rationale applies here as above in rejecting the claim 2.

As per claim 4, 22 and 40, Chi as modified teaches the claimed invention as described above (see claim 3, 21 and 39 respectively). Chi as modified further teaches if a request to execute a banned computer program is identified, then one or more banned program actions are triggered, said banned program actions including one or more of: (i) said banned computer program is deleted; (ii) said banned computer program is disabled; (iii) said banned program is encrypted and replaced by a stub program; and (iv) an alert indicating detection of said banned computer program is issued (Chambers: see for example, Column 2 Line 5 – 7).

As per claim 5, 23 and 41, Chi as modified teaches the claimed invention as described above (see claim 3, 21 and 39 respectively). Chi as modified further teaches data identifying one or more banned computer programs is a permitted computer program list with any computer program not included within said permitted computer program list being a banned computer program (Chambers: see for example, Column 6 Line 37 – 42 and Column 2 Line 3 – 4).

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As per claim 11, 29 and 47, Chi teaches the claimed invention as described above (see claim 1, 19 and 37 respectively). Chi further disclose audit data generator logic calculating the virus signatures representing a component or a combination of components of a virus (Chi: see for example, Column 3 Line 27).

Chi does not disclose expressly calculating a checksum value from said computer file, said checksum value being used in identification of said computer file as a particular computer program.

Chambers teaches audit data generator logic calculating a checksum value from said computer file, said checksum value being used in identification of said computer file as a particular computer program (Chambers: see for example, Column 10 Line 66 – Column 11 Line 1).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Chambers within the system of Chi because Chi teaches a method of computer virus detection (Chi: see for example, Column 1 Line 6 –7) and Chambers teaches an improved antivirus program by validating / examining a checksum of the file as being virus-contaminated or not (Chambers: see for example, Column 3 Line 38 – 42 and Column 10 Line 66 – Column 11 Line 1).

As per claim 12, 30 and 48, Chi as modified teaches the claimed invention as described above (see claim 11, 29 and 47 respectively). Chi as modified further teaches audit data generator logic stores said calculated checksum value and uses said

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stored calculated checksum values instead of recalculating said checksum value when said computer file subject to a subsequent access without any intervening change having been made to said computer file (Chambers: see for example, Column 3 Line 21 – 22).

4. Claims 6 – 10, 24 – 28 and 42 – 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chi (Patent Number: 6006329), in view of Christiano (Patent Number: 5671412).

As per claim 6, 24 and 42, Chi teaches the claimed invention as described above (see claim 1, 19 and 37 respectively). Chi does not teach the record of system usage to identify a request to execute a computer program.

Chi does not disclose expressly tracking concurrent usage logic operable to perform a concurrent usage check to identify a request to execute a computer program that would result in said computer program concurrently executing upon more than a predetermined number of computers upon a computer network.

Christiano teaches concurrent usage logic operable to perform a concurrent usage check to identify a request to execute a computer program that would result in said computer program concurrently executing upon more than a predetermined number of computers upon a computer network (Christiano: see for example, Column 7 Line 1 – 7).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Christiano within the system of Chi as modified because Chi teaches a method for detecting computer viruses that span multiple data streams / files (Chi: see for example, Column 1 Line 8 – 9) and Christiano further teaches using computer license manager software to detect the software usage violation when concurrent usages exceed a predefined number of copies / files (Christiano: see for example, Column 7 Line 1 – 7).

As per claim 7, 25 and 43, Chi as modified teaches the claimed invention as described above (see claim 6, 24 and 42 respectively). Chi as modified further teaches concurrent usage check indicates that said request to execute said computer program would result in more than said predetermined number of computers upon said computer network concurrently executing said computer program, then said request to execute said computer program is denied (Christiano: see for example, Column 7 Line 51 – 67).

As per claim 8, 26 and 44, Chi as modified teaches the claimed invention as described above (see claim 7, 25 and 43 respectively). Chi as modified further teaches a user message is displayed when execution of said computer program is prevented (Christiano: see for example, Column 7 Line 61).

As per claim 9, 27 and 45, Chi as modified teaches the claimed invention as described above (see claim 6, 24 and 42 respectively). Chi as modified further teaches

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predetermined number varies with time (Christiano: see for example, Column 7 Line 20 – 30).

As per claim 10, 28 and 46, Chi as modified teaches the claimed invention as described above (see claim 9, 27 and 45 respectively). Chi as modified further teaches at certain times said predetermined number is zero (Christiano: see for example, Column 7 Line 25 – 36: This is inherited by all of the run time of the program has been used).

5. Claims 13 – 14, 17 – 18, 31 – 32, 35 – 36, 49 – 50 and 53 – 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chi (Patent Number: 6006329), in view of Hypponen (Patent Number: 6577920).

As per claim 13, 31 and 49, Chi teaches the claimed invention as described above (see claim 1, 19 and 37 respectively). Chi does not teach audit data generator logic is responsive to a non-user specified database of data indicative of particular computer programs.

Hypponen teaches audit data generator logic is responsive to a non-user specified database of data indicative of particular computer programs (Hypponen: see for example, Column 1 Line 47 – 53, Column 1 Line 66 – 67 and Column 3 Line 26 – 31).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Hypponen within the system of Chi because Chi teaches a method of computer virus detection (Chi: see for example, Column 1 Line 6 –7) and Hypponen teaches providing the screening of computer data for virus and more particularly to the screening of computer data for macro viruses (Hypponen: see for example, Column 1 Line 5 – 6).

As per claim 14, 32 and 50, Chi teaches the claimed invention as described above (see claim 1, 19 and 37 respectively). Chi does not teach audit data generator logic is responsive to a user specified database of data indicative of particular computer programs.

Hypponen teaches audit data generator logic is responsive to a user specified database of data indicative of particular computer programs (Hypponen: see for example, Column 3 Line 3 – 10).

Same rationale applies here as above in rejecting the claim 11.

As per claim 17, 35 and 53, Chi teaches the claimed invention as described above (see claim 1, 19 and 37 respectively). Chi does not teach local audit data is stored upon a computer within a computer network until said computer is polled by a remote computer upon said computer network whereupon said local audit data is sent to said remote computer.

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Hypponen teaches local audit data is stored upon a computer within a computer network until said computer is polled by a remote computer upon said computer network whereupon said local audit data is sent to said remote computer (Hypponen: see for example, Column 5 Line 62 – 65).

Same rationale applies here as above in rejecting the claim 11.

As per claim 18, 36 and 54, Chi as modified teaches the claimed invention as described above (see claim 17, 35 and 53 respectively). Chi as modified teaches remote computer generates a consolidated audit report for a plurality of computers upon said computer network (Hypponen: see for example, Column 5 Line 62 – 65).

6. Claims 16, 34 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chi (Patent Number: 6006329), in view of Bates (Patent Number: 6721721).

As per claim 16, 34 and 52, Chi teaches the claimed invention as described above (see claim 1, 19 and 37 respectively). Chi does not disclose expressly computer virus scan request results from an on-demand scan.

Bates teaches computer virus scan request results from an on-demand scan (Bates: see for example, Column 24 Line 30 – 33 and Column 17 Line 41 – 46).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Bates within the system of Chi because Chi teaches a method of computer virus detection (Chi: see for example, Column 1 Line


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6 –7) and Bates teaches, more specifically, on virus checking and scanning on a particular file requested by the user (Bates: see for example, Column 1 Line 7 – 8 and Column 17 Line 41 – 46).

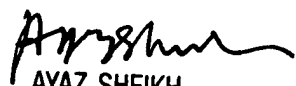
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Longbit Chai whose telephone number is 571-272-3788. The examiner can normally be reached on Monday-Friday 8:00am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz R Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


LBC

Longbit Chai
Examiner
Art Unit 2131


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